

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

THOMAS KARMAZIS,

Plaintiff,

v.

DR. SHAH and A. RECTOR, ,

Defendants.

Case No. 13-cv-1120-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 17) of Magistrate Judge Philip M. Frazier recommending that the Court deny plaintiff Thomas Karmatzis’ motion for a preliminary injunction without prejudice (Doc. 9). Karmatzis has objected to the Report (Doc. 18)

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Karmatzis is incarcerated at the Pinckneyville Correctional Center (“Pinckneyville”). He believes the defendants, who work at Pinckneyville, have been deliberately indifferent to his medical needs and have not accommodated his disability. He asks the Court to order prison officials to transfer him to a place where people other than the defendants will be responsible for his medical care. At the time Magistrate Judge Frazier issued the Report, the defendants had not been served and had not appeared in the case. Consequently, the Court did not have the benefit of

adversarial argument on the preliminary injunction factors. On this basis, Magistrate Judge Frazier recommended the Court deny Karmatzis' motion without prejudice. Karmatzis objects, complaining that he has serious medical needs that are not being treated.

The Court believes Magistrate Judge Frazier was correct in declining to recommend a preliminary injunction issue without input from both sides of this case, particularly about the relative burdens of granting or denying the motion. The Court notes that the defendants have appeared and Karmatzis has filed a subsequent motion for preliminary injunction (Doc. 41), which is currently being briefed. Karmatzis' current plight will be addressed in the ruling on that motion.

For these reasons, the Court:

- **ADOPTS** the Report (Doc. 17) in its entirety;
- **DENIES without prejudice** Karmatzis' motion for a preliminary injunction (Doc. 9); and
- **DENIES as moot** Karmatzis' motion for the status of his objection (Doc. 37) in light of this order.

IT IS SO ORDERED.

DATED: March 17, 2014

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE